



INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1104 (Modification)]

Certain Multi-Domain Test and Measurement Instruments; Notice of Commission

Determination to Institute a Modification Proceeding and Modify Three Consent Orders;

Termination of the Modification Proceeding

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to institute a modification proceeding and modify three consent orders issued in the underlying investigation to exclude certain products subject to a settlement agreement. The modification proceeding is terminated.

FOR FURTHER INFORMATION CONTACT: Lynde Herzbach, Office of the General Counsel, U.S. International Trade Commission, 500 E Street S.W., Washington, D.C. 20436, telephone (202) 205-3228. Copies of non-confidential documents filed in connection with this investigation may be viewed on the Commission's electronic docket (EDIS) at <https://edis.usitc.gov>. For help accessing EDIS, please email EDIS3Help@usitc.gov. General information concerning the Commission may also be obtained by accessing its Internet server at <https://www.usitc.gov>. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: On March 16, 2018, the Commission instituted this investigation under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 ("section 337"), based on a complaint filed by Tektronix, Inc. of Beaverton, Oregon ("Tektronix"). *See* 83 FR 11790 (Mar. 16, 2018). The complaint alleges a violation of section 337 based upon the importation into the United States, sale for importation, or sale after importation into the United States of certain multi-domain test and measurement instruments by reason of infringement of

certain claims of U.S. Patent No. 8,521,460 and U.S. Patent No. 8,675,719 (“the Asserted Patents”). *Id.* The notice of investigation names three respondents: Rohde & Schwartz GmbH & Co. KG of Munich, Germany; Rohde & Schwartz Vertriebs GmbH of Munich, Germany; and Rohde & Schwartz USA, Inc. of Columbia, Maryland (collectively, “R&S”). *Id.* at 11791.

On August 10, 2018, the Commission issued a consent order to each of the three respondents. Order No. 12 (Jul. 13, 2018), *unreviewed by* Notice (Aug. 10, 2018). The three consent orders prohibit R&S from selling for importation or selling after importation certain accused multi-domain test and measurement instruments that were alleged to infringe the asserted claims of the Asserted Patents. Following issuance of the consent orders, the investigation proceeded with respect to the remaining accused products.

On September 17, 2018, the Commission terminated the investigation in view of the consent orders and Tektronix’s unopposed motion to terminate the investigation in its entirety based on withdrawal of the complaint as to any remaining accused products. Order No. 16 (Aug. 24, 2018), *unreviewed by* 83 FR 47937-38 (Sept. 21, 2018).

On February 10, 2020, Tektronix and R&S filed a petition pursuant to Commission Rule 210.76 (19 CFR 210.76) to rescind in-part the three consent orders with respect to certain covered products based on a settlement agreement.

Having reviewed the petition, the Commission has determined that the petition complies with Commission Rule 210.76 (19 CFR 210.76), and that there are no extraordinary reasons to deny modification of the consent orders. Accordingly, the Commission has determined to institute a modification proceeding and to modify the three consent orders. Specifically, the three consent orders are rescinded in-part to the extent the orders cover R&S’s RTM and RTA line of oscilloscopes with a proposed “K37 Option” and to the extent the orders cover R&S products other than oscilloscopes.

The modification proceeding is terminated.

The Commission vote for this determination took place on August 24, 2021.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.
Issued: August 23, 2021.

Katherine Hiner,
Supervisory Attorney.

[FR Doc. 2021-18570 Filed: 8/27/2021 8:45 am; Publication Date: 8/30/2021]